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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,033	11/16/2001	Howard V. Perlmutter	5359-5.2	9557
7590	12/13/2005			
Robert S. Lipton LIPTON, WEINBERGER & HUSICK P.O. Box 934 201 North Jackson Street Media, PA 19063			EXAMINER GRAYSAY, TAMARA L	
			ART UNIT 3623	PAPER NUMBER
DATE MAILED: 12/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/006,033	PERLMUTTER, HOWARD V.	
	Examiner	Art Unit	
	Tamara L. Graysay	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

2. It is noted that this application appears to claim subject matter disclosed in prior Application No. 60/249092, filed 16 November 2000.

A reference to the prior application must be inserted as the first sentence(s) of the specification of this application or in an application data sheet (37 CFR 1.76), if applicant intends to rely on the filing date of the prior application under 35 U.S.C. 119(e), 120, 121, or 365(c). See 37 CFR 1.78(a). For benefit claims under 35 U.S.C. 120, 121, or 365(c), the reference must include the relationship (i.e., continuation, divisional, or continuation-in-part) of all nonprovisional applications. If the application is a utility or plant application filed under 35 U.S.C. 111(a) on or after November 29, 2000, the specific reference to the prior application must be submitted during the pendency of the application and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. If the application is a utility or plant application which entered the national stage from an international application filed on or after November 29, 2000, after compliance with 35

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U.S.C. 371, the specific reference must be submitted during the pendency of the application and within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) or sixteen months from the filing date of the prior application. See 37 CFR 1.78(a)(2)(ii) and (a)(5)(ii). This time period is not extendable and a failure to submit the reference required by 35 U.S.C. 119(e) and/or 120, where applicable, within this time period is considered a waiver of any benefit of such prior application(s) under 35 U.S.C. 119(e), 120, 121 and 365(c). A benefit claim filed after the required time period may be accepted if it is accompanied by a grantable petition to accept an unintentionally delayed benefit claim under 35 U.S.C. 119(e), 120, 121 and 365(c). The petition must be accompanied by (1) the reference required by 35 U.S.C. 120 or 119(e) and 37 CFR 1.78(a)(2) or (a)(5) to the prior application (unless previously submitted), (2) a surcharge under 37 CFR 1.17(t), and (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2) or (a)(5) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional. The petition should be addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

If the reference to the prior application was previously submitted within the time period set forth in 37 CFR 1.78(a), but not in the first sentence(s) of the specification or an application data sheet (ADS) as required by 37 CFR 1.78(a) (e.g., if the reference was submitted in an oath or declaration or the application transmittal letter), and the information concerning the benefit claim was recognized by the Office as shown by its inclusion on the first filing receipt, the petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) are not required.

Applicant is still required to submit the reference in compliance with 37 CFR 1.78(a) by filing an amendment to the first sentence(s) of the specification or an ADS. See MPEP § 201.11.

Drawings

3. The drawings are objected to because of the following:
- a. It appears that FIG.8-8/18 is mislabeled and should be FIG. 8-18/10.
 - b. Figures 8-51 to 8-52, mentioned at page 4 of the specification, are not part of the scanned image file wrapper, i.e., have not been received.
 - c. Figures 9-1 to 9-18, mentioned at page 4 of the specification, are not part of the scanned image file wrapper, i.e., have not been received.
 - d. Figures 10-1 to 10-18, mentioned at page 4 of the specification, are not part of the scanned image file wrapper, i.e., have not been received.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 9, 11, and 20 are objected to because of the following informalities:
- a. Claim 9, line 2, [responses] should be answers so as to be consistent with the terminology used in claim 6.
 - b. Claim 11, lines 1 (one occurrence) and 2 (two occurrences), [communication] should be communication information so as to be consistent with the terminology used in claim 1.
 - c. Claim 20, line 2, [responses] should be answers so as to be consistent with the terminology used in claim 17.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim is confusing and indefinite for two reasons. First, the claim is attempting to modify two steps (reinforcing and decreasing) into one step by claiming that the two steps comprise the step of “taking steps.” Second, the step of “taking steps” is unclear insofar as the steps are defined as “steps” without reciting what are the steps. Essentially the method comprising the step of taking steps is not sufficiently clear that the metes and bounds of patent protection can be ascertained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Mohr (article, Characteristics of partnership success: partnership attributes, communication behavior, and conflict resolution techniques).

a. Regarding claim 1, Mohr discloses

- i. collecting communication information (p.138-139, § Communication behavior; and p.140-141, § Data collection);
- ii. determining an organization profile based on said communication information (p.138-139, § Communication behavior: quality communication between partners is essential, i.e., timely, accurate, relevant, honest, open; extent of information sharing, i.e., more frequent and more relevant; and participation in joint planning and goal setting, i.e., roles, responsibilities, expectations. Each of these contributes to partnership success. p.142-143, § Attributes of the partnership, i.e., commitment, coordination, and trust);
- iii. predicting outcome based on the profile utilizing predetermined criteria (p.141-143, § Success of the partnership, § Attributes of the partnership, § Aspects of communication behavior; p.144, § RESULTS Hypothesis 1 and Hypothesis 2; p.145; p.148, second paragraph).

- b. Regarding claim 2, the questionnaire (p.152) used is comprised of a plurality of dialog drivers (quality, participation, information sharing) and a plurality of dialog deficits (e.g., parties only provide information according to agreements, we do not volunteer much information. Although it appears that these deficits were eliminated during scale purification, they are still presented as part of the Mohr questionnaire and thus prior art.
- c. Regarding claims 3 and 4, the items were tested on a 5-point scale (p.152, bottom right column).
- d. Regarding claim 5, depth of communication is encompassed by Mohr insofar as the closeness of a partnership is determined by the answers to the questionnaire as mentioned on p.138-138, § Communication behavior).
- e. Regarding claim 6, the method of Mohr included a plurality of answers to a plurality of questions by a plurality of persons.
- f. Regarding claim 7, as mentioned above, the answers were a 5-point scale which is a plurality of ranking for the dialog drivers and dialog deficits.
- g. Regarding claim 8, Mohr includes extracting statistical information from the ranking answers (for example p.144).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (article, Characteristics of partnership success: partnership attributes, communication behavior, and conflict resolution techniques).

Regarding claims 9 and 10, a statistical mean is the sum of all values divided by the number of values. Taking into consideration the level of ordinary skill of a statistician the examiner takes Official notice that the use of a statistical mean is a well known basis for comparison of data. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Mohr to include comparing the statistical means in order to predict the outcome of the supplier-manufacturer partnerships that were analyzed in the Mohr questionnaire.

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8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (article, Characteristics of partnership success: partnership attributes, communication behavior, and conflict resolution techniques) in view of Medcof (article, Challenges in managing technology in transnational multipartner networks).

Regarding claim 11, the communication information in Mohr includes communication between an organization and a stakeholder (supplier-manufacturer). Although Mohr cautions as to generalization of the results across a broad range of strategic partnerships, the statement in the context of the reference as a whole suggests applying the process to other partnerships to obtain information as to the success of those other partnerships.

Medcof teaches partnerships or collaborations both internal and external to an organization (e.g., Figure 1). The Mohr reference suggests analysis of other partnership success as noted above.

Therefore, it would have been obvious to one of ordinary skill in the art to modify the process of Mohr to include communication information within the organization in addition to communication between a stakeholder and an organization, in order to accurately analyze the relationship among the entities within an organization for the purpose of determining its internal success.

9. Claims 12-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (article, Characteristics of partnership success: partnership attributes, communication behavior, and conflict resolution techniques).

- a. Regarding claim 12, Mohr discloses
 - i. collecting communication information (p.138-139, § Communication behavior; and p.140-141, § Data collection);
 - ii. determining an organization profile based on said communication information (p.138-139, § Communication behavior: quality communication between partners is essential, i.e., timely, accurate, relevant, honest, open; extent of information sharing, i.e., more frequent and more relevant; and participation in joint planning and goal setting, i.e., roles, responsibilities, expectations. Each of these contributes to partnership success. p.142-143, § Attributes of the partnership, i.e., commitment, coordination, and trust);
 - iii. diagnosing an organization using predetermined criteria (p.141-143, § Success of the partnership, § Attributes of the partnership, § Aspects of communication behavior; p.144, § RESULTS Hypothesis 1 and Hypothesis 2; p.145; p.148, second paragraph).

Mohr lacks the steps of reinforcing a dialog driver and decreasing a dialog deficit.

However, Mohr states that closeness is a sign of a successful partnership or organization interaction. Mohr further states that communications that are more frequent and more relevant would be used to increase the closeness of the tie between

partners (e.g., p.139, § Information sharing). Intuitively communications that are less frequent and less relevant would contribute to the deficit of a partnership.

While the reference does not explicitly state that the steps of reinforcing a dialog driver and decreasing a dialog deficit are performed. It is suggested by the reference that such activities or steps would be used to improve the likelihood of success of the interaction among organizations, in this case the supplier and manufacturer.

Thus it would have been obvious to one of ordinary skill in the business field to modify the process of Mohr to include the steps of reinforcing a dialog driver and decreasing a dialog deficit in order to improve a business relationship.

b. Regarding claim 13, the questionnaire (p.152) used is comprised of a plurality of dialog drivers (quality, participation, information sharing) and a plurality of dialog deficits (e.g., parties only provide information according to agreements, we do not volunteer much information. Although it appears that these deficits were eliminated during scale purification, they are still presented as part of the Mohr questionnaire and thus prior art.

c. Regarding claims 14 and 15, the items were tested on a 5-point scale (p.152, bottom right column).

d. Regarding claim 16, depth of communication is encompassed by Mohr insofar as the closeness of a partnership is determined by the answers to the questionnaire as mentioned on p.138-138, § Communication behavior).

- e. Regarding claim 17, the method of Mohr included a plurality of answers to a plurality of questions by a plurality of persons.
- f. Regarding claim 18, as mentioned above, the answers were a 5-point scale which is a plurality of ranking for the dialog drivers and dialog deficits.
- g. Regarding claim 19, Mohr includes extracting statistical information from the ranking answers (for example p.144).
- h. Regarding claims 20 and 21, a statistical mean is the sum of all values divided by the number of values. Taking into consideration the level of ordinary skill of a statistician the examiner takes Official notice that the use of a statistical mean is a well known basis for comparison of data. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the method of Mohr to include comparing the statistical means in order to predict the outcome of the supplier-manufacturer partnerships that were analyzed in the Mohr questionnaire.
- i. Regarding claim 22, the depth of communication in Mohr is the same as closeness of ties.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

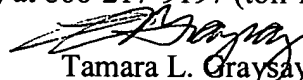
- Medcof (article, Challenges in managing technology in transnational multipartner networks) further teaches the relationship among effective interaction, successful collaboration, and open communication for both internal and external networks as well as the collection and interpretation of information about business practice, its environment, and its co-evolution.
- Spekman (article, Alliance management: a view from the past and a look to the future) mentions various alliances, e.g., partnership, marketing agreements, to leverage market presence of each partner (p.758) and the need for periodic reviews as a formal mechanism to examine the health of an alliance as it progresses through its life cycle (p.767).
- Rao (article, A behavioral perspective on negotiating international alliances) teaches communications among parties as it relates to negotiations.
- Lane (article, The age of knowledge frontier or fad) teaches the importance of communications to long-term commercial survival.
- Beckerman (article, Making relationship marketing pay-off today) teaches customer dialog as a key driver of success.
- Lin (article, Sustaining satisfactory joint venture relationships: the role of conflict resolution strategy) teaches the use of communications as it applies to conflict resolution.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/11/05
Tamara L. Graysay
Examiner
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